



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 21, 1995

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Legal Affairs Division  
Texas Department of Criminal Justice  
P.O. Box 99  
Huntsville, Texas 77342-0099

OR95-416

Dear Mr. Peck:

On behalf of the Texas Department of Criminal Justice (the "department"), you have requested that this office reconsider Open Records Letter No. 95-156 (1995). Your request for reconsideration was assigned ID# 33419. In that ruling, this office held that a desk audit concerning the classification of certain employees was not excepted under section 552.111 of the Government Code. We determined that "[t]he information at issue here clearly pertains solely to the internal administrative matter of equitable job classifications and does not touch upon the mission objectives of the department." Open Records Letter No. 95-156 (1995) at 2; *see also* Open Records Decision No. 615 (1993) at 5. You disagree with that decision and contend that the information at issue is the same type of information under consideration in Open Records Decision No. 631 (1995).

Open Records Decision No. 631 (1995) concerned a report produced by an outside consultant hired by The University of Texas at Arlington (the "university"). The report addressed the retention, tenure, and promotion process at the university and allegations of discrimination against one particular faculty member. In that opinion we determined that "the report [the university] submitted for review [was] related to the policymaking functions of the university." Open Records Decision No. 631 (1995) at 3. We explained our decision with the following rationale:

We believe that the policymaking functions of a governmental body include advice, recommendations, and opinions regarding administrative and personnel matters of broad scope that affect the governmental body's policy mission. The report [the university]

submitted for review does not pertain solely to the internal administration of the university. Instead, the scope of the report is much broader and involves the university's educational mission: it relates to the university's policies concerning affirmative action and how it will meet the needs of a diverse student body.

*Id.*

You argue that the information at issue in Open Records Letter No. 95-156 (1995) is similar in scope stating that:

This case is a simple version of the predicament resolved in ORD 631. . . .

This transaction was considerably more narrow but possibly just as controversial to involved participants. But the question was in fact a matter of policy: how, consistent with controlling statutes, certain classes of positions ought to be classified?

We do not agree. On examination of the documents resubmitted for our review, it is clear that the audit concerns specific employees with varying classifications rather than personnel matters of such a broad scope that they would affect the department's policies and mission. We see no connection between the requested records and the department's policy mission to operate a modern prison system; to provide persons convicted of violating the law humane treatment and with the opportunity, encouragement, and training necessary to facilitate reformation; and to make the institutional division self-sustaining. Gov't Code § 494.001 (stating policy of institutional division). Open Records Decision No. 631 (1995) is clearly distinguishable. Accordingly, we reaffirm our decision in Open Records Letter No. 95-156 (1995): section 552.111 of the Government Code does not apply to the requested records.<sup>1</sup>

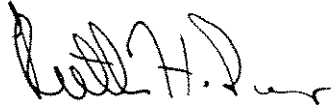
We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records.

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<sup>1</sup>We remind you that the Open Records Act places on a governmental body the burden of establishing why and how an exception applies to requested information. Open Records Decision Nos. 542 (1990), 532 (1989). If a governmental body fails to provide to this office all the relevant information needed to make a determination, the governmental body has not met its burden of establishing why and how an exception applies to requested information.

If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Government Section

RHS/LBC/rho

Ref: ID# 33419

Enclosures: Submitted documents

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